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The Child Poverty Act 2010 and Northern Ireland's Role

Introduction

The Child Poverty Act¹ passed into law in March 2010 committing the UK government to eradicate child poverty by 2020. The Act requires the UK to reduce child poverty on four income targets, publish a child poverty strategy every three years, to pay due attention to the advice of the Child Poverty Commission² and to report annually to Westminster. The Act does not set specific Northern Ireland targets but it does require the Executive to demonstrate that it is contributing to the reduction of child poverty.

This briefing paper focuses on the Child Poverty Act and the obligations placed upon government departments in Northern Ireland. The first two sections outline the duties laid upon the Office of the First Minister and deputy First Minister and briefly

¹ <http://www.legislation.gov.uk/ukpga/2010/9/contents>

² In April 2011 the UK government announced that it plans to replace the Child Poverty Commission with a Social Mobility and Child Poverty Commission.

summarises the actions it has taken to enable these obligations. Section 3 outlines the responsibilities placed by the Act upon the other NI departments. The final section of the paper briefly looks at the role, structure and makeup of the proposed Social Mobility and Child Poverty Commission.

Section 1 What obligations does the Child Poverty Act lay on OFMDFM?

➤ PREPARE & PUBLISH A STRATEGY

OFMDFM's role (as the 'relevant Northern Ireland department') is to **publish and lay before the Assembly** the first Northern Ireland Child Poverty strategy. This duty is stated in Section 12(1) of the Act:

(1)The relevant Northern Ireland department must, before the end of the period of 12 months beginning with the day on which this Act is passed, publish and lay before the Northern Ireland Assembly the first Northern Ireland strategy.

The Act directs how OFMDFM is to prepare the strategy. For example, Section 13 requires OFMDFM to consult particular persons when they are preparing a strategy:

Section 13(1) places a duty on OFMDFM to request the advice of the Child Poverty Commission when preparing a strategy and to specify a date by which the advice must be provided.

(1)In preparing a Scottish strategy or a Northern Ireland strategy, the devolved administration must request the advice of the Commission, and specify in the request the date by which the advice is to be given.

Section 13(2) requires OFMDFM to have regard to the Commission's advice in the development of its strategies:

(2)The devolved administration must have regard to any advice given by the Commission under this section.

Whilst preparing the strategy (of March 2011) OFMDFM was unable to comply with the duty to request the advice of the Child Poverty Commission as the Commission had not been established. The Commission has now been abolished by the UK

government and replaced by the Social Mobility and Child Poverty Commission, which has not yet been established³.

The Welfare Reform Bill⁴ when enacted will make revisions to the Child Poverty Act. Schedule 13 Paragraph 7 repeals section 13(1) and (2) of the Act. This means that the Scottish Ministers and the relevant Northern Ireland Department no longer have to request advice from the Commission and have regard to that advice when developing their devolved strategies.

Section 13(3) of the Act lists the other parties that OFMDFM must consult in preparing its strategies. OFMDFM is required to consult the Secretary of State and such children and organisations working with or representing children, as they think fit; and such parents, and organisations working with or representing parents, as they think fit. They may also consult other persons:

(3) In preparing a Scottish strategy or a Northern Ireland strategy, the devolved administration—

(a) in the case of a Scottish strategy, must consult such local authorities or associations of local authorities in Scotland as the devolved administration thinks fit,

(b) must consult the Secretary of State,

(c) must consult such children, and organisations working with or representing children, as the devolved administration thinks fit,

(d) must consult such parents, and organisations working with or representing parents, as the devolved administration thinks fit, and

(e) may consult such other persons as the devolved administration thinks fit.

Section 16(3) of the Act requires OFMDFM to take economic and fiscal circumstances into account in the preparation of its strategies:

(3) In preparing a Scottish strategy or a Northern Ireland strategy, the Scottish Ministers, or the relevant Northern Ireland department must have regard to-

(a) the resources that are or may be available to the Scottish Ministers or, as the case may be, to the Northern Ireland departments, and

(b) the effect of the implementation of the strategy on those resources.

³ See pages 10-12 of this paper.

⁴ http://www.publications.parliament.uk/pa/bills/lbill/2010-2012/0075/lbill_2010-20120075_en_1.htm

➤ **ENSURE THE CONTENT OF THE STRATEGY IS IN LINE WITH LEGISLATIVE REQUIREMENTS**

Duties for OFMDFM derive from Section 12 subsection 4 of the Act. This concerns the **content of the strategy**. It is OFMDFM's responsibility as the lead department ('relevant Department') to ensure that the strategy is produced in line with the legislative requirements set out here. Subsection (4)(a)(i) requires the strategy to describe the progress that the Northern Ireland departments intend to make over the period covered by the strategy in contributing to the meeting of the targets in sections 3 to 6 by the end of the target year (which is 2020).

4) A Northern Ireland strategy must—

(a) where it relates to a period ending before the end of the target year—

(i) describe the progress that the Northern Ireland departments intend to make in Northern Ireland by the end of the period to which the strategy relates in contributing to the meeting of the targets in sections 3 to 6 in relation to the target year,

Subsection (4)(a)(ii) requires the strategy to set out the progress the Northern Ireland departments intend to make in the period covered by the strategy in achieving the aim of ensuring that as far as possible that children in Northern Ireland do not experience socio-economic disadvantage.

(ii) describe the other progress that the Northern Ireland departments intend to make by the end of the period to which the strategy relates in achieving the purpose mentioned in subsection (2)(b),

Subsection (4)(b) requires the strategy to describe the progress that the Northern Ireland departments intend to make (other than that which is a result of ensuring that the targets are met) by the end of the target year in ensuring as far as possible that children in Northern Ireland do not experience socio-economic disadvantage.

(b) describe the progress that the Northern Ireland departments intend to make by the end of the target year in achieving the purpose mentioned in subsection (2)(b), otherwise than by contributing to the meeting of the targets

➤ **PREPARE & PUBLISH REVISED STRATEGIES**

Section 12 Subsection (3) of the Act requires that before the end of the period to which a Northern Ireland strategy relates, the relevant Northern Ireland department (OFMDFM) must review the strategy and publish and lay before the Northern Ireland Assembly a **revised Northern Ireland strategy**. Strategies must be published every three years; however, there is no requirement under this section to publish revised strategies after the beginning of the target year (which is 2020).

(3) Before the end of the period to which a Northern Ireland strategy relates, the relevant Northern Ireland department must review the strategy and publish and lay before the Northern Ireland Assembly a revised Northern Ireland strategy, but this subsection does not apply after the beginning of the target year.

➤ **ENSURE THE CONTENT OF REVISED STRATEGIES IS IN LINE WITH LEGISLATIVE REQUIREMENTS**

Further duties for OFMDFM derive from Section 12(5). It is OFMDFM's role to ensure that a **revised strategy** complies with the requirements in this part of the Act. The subsection details what a revised strategy should contain: the measures taken by the Northern Ireland departments in accordance with the previous Northern Ireland strategy, the effect that those measures had on progress towards meeting the targets in sections 3 to 6 and other effects of those measures that contribute to the aim of ensuring as far as possible that children in Northern Ireland do not experience socio-economic disadvantage.

(5) A Northern Ireland strategy other than the first must also—

- (a) describe the measures taken by the Northern Ireland departments in accordance with the previous Northern Ireland strategy,
- (b) describe the effect of those measures in contributing to the meeting of the targets in sections 3 to 6, and
- (c) describe other effects of those measures that contribute to the achievement of the purpose mentioned in subsection (2)(b).

➤ REPORT ANNUALLY TO THE ASSEMBLY

Section 12(7)⁵ of the Act requires the relevant Northern Ireland department (OFMDFM) to lay before the Northern Ireland Assembly an **annual report** describing: the measures taken by the Northern Ireland departments in accordance with the Northern Ireland strategy; how those measures have contributed to meeting the targets in sections 3 to 6 and the aim of ensuring as far as possible that children in Northern Ireland are not affected by socio-economic disadvantage:

(7)The relevant Northern Ireland department must, on or before each report date relating to a Northern Ireland strategy, lay before the Northern Ireland Assembly a report which—

- (a) describes the measures taken by the Northern Ireland departments in accordance with the Northern Ireland strategy,
- (b) describes the effect of those measures in contributing to the meeting of the targets in sections 3 to 6, and
- (c) describes other effects of those measures that contribute to the achievement of the purpose mentioned in subsection (2)(b).

Section 2 Actions taken by OFMDFM to enable these obligations

➤ The Child Poverty Strategy: pre-consultation

From July to September 2010 OFMDFM carried out pre-consultation engagement with stakeholders. This included discussions with key government departments, nongovernmental organisations representing children and young people and a number of sectoral umbrella organisations. A pre-consultation paper “*Starting the Discussion*” was issued to stakeholder groups.⁶ This sought views on the development process of the strategy.

➤ Formal consultation

The consultation was launched on 6th December 2010 and ran until 6th February 2011⁷. During the consultation period, seven public meetings were held and three

⁵ Note. The Welfare Reform Bill makes no amendments to this part of the Child Poverty Act.

⁶ <http://www.participationnetwork.org/downloads/OFMDFM/PRE-CONSULTATION%20DISCUSSION%20PAPER%20-%20JULY%202010.pdf>

⁷ Consultation Document can be found at: http://www.ofmdfmi.gov.uk/executive_approved_draft_child_poverty_strategy_for_consultation_6.12.10-2.doc

events for children and young people were arranged to take their views on the proposals in the draft strategy. A series of focus groups with parents was also arranged to gather views on the draft strategy. 49 written responses were received and analysed alongside the reports from both the parents' forums and the children's events.

Some aspects of the draft child poverty strategy were criticised by children's sector organisations during the consultation process. These related, for example, to the choice of priority areas, a lack of specific objectives and language that was sometimes "too weak and vague". OFMDFM stated that it would be publishing an action plan to accompany the strategy at a later date.

➤ **Publication of the Strategy**

OFMDFM published *Improving Children's Life Chances: the Child Poverty Strategy* on 24 March 2011⁸. OFMDFM took lead responsibility for its production, compiling the responses from all other NI departments. The strategy notes the legal requirements for annual reporting and for revision of the strategy every third year. Consequently, a report on progress will be issued by March 2012 and a revised strategy by March 2014⁹.

➤ **Development of the Action Plan and Outcomes Model**

Over the summer period 2011 the Junior Ministers met with the Poverty and Social Inclusion Stakeholder forum to discuss the development of the Child Poverty Strategy Action Plan. The Stakeholder Forum met again, on 27 October 2011. The First Minister and Deputy First Minister reported on 4 November 2011 that "*work is now in hand to finalise the Child Poverty Strategy Action Plan and an associated Outcomes Model*".¹⁰ Following the completion of this phase of the work the Action Plan and Outcomes Model will issue for public consultation.

⁸ *Improving Children's Life Chances: the Child Poverty Strategy*
http://www.ofmdfmi.gov.uk/final_child_poverty_strategy_-_agreed_by_executive_-_22_march_2011.pdf

⁹ *Ibid* Page 4

¹⁰ <http://www.niassembly.gov.uk/qanda/2011mandate/writtenans/2011/111104.htm>

➤ **Publication of the Draft Programme for Government 2011-2015¹¹**

The draft Programme for Government 2011-2015 published for consultation in November 2011 by the First Minister and deputy First Minister makes three specific references to child poverty. The *Plans and Priorities* section of the document reiterates government's commitment to fulfil its duty to reduce child poverty. The "Milestones/Outputs" assigned to this key priority are:

- 2012/13 – Complete a Child Poverty Action Plan which will be based on a Poverty Outcomes Model that is designed to show which interventions will have the most significant effect in tackling child poverty. Ensure that the action plan is consistent with commitments under the Child Poverty Act.
- 2013/14 - Implement key milestones and monitor performance through lead indicators. Ensure that this feeds into the Area Plans being developed for the £80 million Social Investment Fund and the £20 million per annum Social Protection Fund as well as the £3 million per annum Childcare fund.
- 2014/15 – Evaluate performance in terms of early indicators and likely impact on longer term trends.¹²

The Equality Impact Assessment for the draft Programme for Government (PfG) lists the key commitments in the PfG which are expected to "address the needs of children and young people and in particular the issue of child poverty"¹³:

- Fulfil our commitments under the Child Poverty Act to reduce child poverty
- Increase the proportion of young people from disadvantaged backgrounds who achieve at least 5 GCSEs at A* - C or equivalent including GCSEs in Maths and English

¹¹ <http://www.northernireland.gov.uk/draft-pfg-2011-2015.pdf>

¹² Page 38 Draft Programme for Government 2011-15

¹³ Page 10 Draft Programme for Government 2011-15 Equality Impact Assessment at a Strategic Level
<http://www.northernireland.gov.uk/draft-pfg-eqia-revised.pdf>

- Improve literacy and numeracy levels among all school leavers, with additional resources targeted at areas of educational underachievement
- Ensure that at least one year of preschool education is available to every family that wants it
- Establish a Ministerial advisory group to explore and bring forward recommendations to the Minister of Education to advance shared education
- Ensure all children have the opportunity to participate in shared education programmes and substantially increase the number of schools sharing facilities

Section 3 Obligations and actions for the other NI departments

The Act obliges all NI departments to **inform OFMDFM** (for the preparation of the strategy) **of the measures they propose to take** to ensure that the child poverty targets are met and to ensure as far as possible that children do not experience socio-economic disadvantage. This duty derives from Section 12(2) of the Act:

(2)A “Northern Ireland strategy” is a strategy under this section setting out the measures that the Northern Ireland departments propose to take—

(a) for the purpose of contributing to the compliance by the Secretary of State with section 2 (duty to ensure that targets are met), and

(b) for the purpose of ensuring as far as possible that children in Northern Ireland do not experience socio-economic disadvantage.

All NI departments have a **statutory duty to report annually to OFMDFM** on the measures taken in the strategy, how those measures have contributed to meeting the child poverty targets and the aim of ensuring as far as possible that children in NI are not affected by socio-economic disadvantage. This duty derives from Section 12(7) of the Act:

(7)The relevant Northern Ireland department must, on or before each report date relating to a Northern Ireland strategy, lay before the Northern Ireland Assembly a report which—

- (a) describes the measures taken by the Northern Ireland departments in accordance with the Northern Ireland strategy,
- (b) describes the effect of those measures in contributing to the meeting of the targets in sections 3 to 6, and
- (c) describes other effects of those measures that contribute to the achievement of the purpose mentioned in subsection (2)(b).

The other NI departments are also obliged to **contribute to the development of the Strategy Action Plan and Outcomes Model** which OFMDFM has advised will be a key accompaniment to the Strategy stating:

*OFMDFM will take the lead in driving forward its delivery through co-ordinating the development of delivery plans and progress reports.*¹⁴

Section 4 The Social Mobility and Child Poverty Commission

The Child Poverty Act requires the establishment of a Child Poverty Commission to provide independent input to help ensure that the policies outlined in the UK Government's Child Poverty Strategy have a positive impact on ending child poverty.

In April 2011 the government announced that it plans to replace the Child Poverty Commission with a Social Mobility and Child Poverty Commission. Until the new Commission is in place, the remit of the Government's Independent Reviewer on Social Mobility¹⁵ (former Labour MP Alan Milburn) will be expanded to include child poverty. Mr Milburn will be appointed as acting Chair once the Commission is established, providing continuity between his current role and the work of the new Commission. A public appointment process will then be held in line with best practice to appoint the Chair and Vice Chair of the Commission.

The new Commission will have a broader remit and will include social mobility as well as child poverty. Government's intention is that the issue of child poverty will be

¹⁴ Child Poverty Strategy page 7
http://www.ofmdfmi.gov.uk/final_child_poverty_strategy_-_agreed_by_executive_-_22_march_2011.pdf

¹⁵ The Cabinet Office 70 Whitehall London SW1A 2AS **Tel** : 020 7276 3000
Website: www.cabinetoffice.gov.uk
Independent Review of Social Mobility: <http://www.cabinetoffice.gov.uk/resource-library/social-mobility-and-child-poverty-review-call-evidence>

considered within the wider context of children's life chances and inter-generational poverty. The role of the Commission will be to monitor progress against the broad range of child poverty, life chances and social mobility indicators, towards the goal of eradicating child poverty.

The Welfare Reform Bill¹⁶ amends the Child Poverty Act and establishes the new Commission. Clause 136 gives effect to Schedule 13 of the Bill, which specifies the amendments. Membership of the Commission will be for a period not exceeding five years and will consist of:

- (a) a chair appointed by a Minister of the Crown,
- (b) a member appointed by the Scottish Ministers,
- (c) a member appointed by the Welsh Ministers,
- (d) a member appointed by the relevant Northern Ireland department, and
- (e) any other members appointed by a Minister of the Crown.¹⁷

The Commission is mandated to provide advice, on request, to a Minister of the Crown on how to measure socio-economic disadvantage, social mobility and child poverty. Any such advice must be published. The Commission will be able to appoint staff to support its work.

In future, the Child Poverty Act will require the Commission to publish annual reports assessing the progress made towards improving social mobility and reducing child poverty in the United Kingdom. This duty replaces the duty on the Secretary of State to provide an annual report for Parliament. The first report has to be published within a year of the provision coming into force. Subsequent reports are required on an annual basis.

The Cabinet's Social Justice Committee will be responsible for overseeing the work carried out by the Commission on child poverty. The Ministerial Group on Social

¹⁶ http://www.publications.parliament.uk/pa/bills/lbill/2010-2012/0075/lbill_2010-20120075_en_1.htm

The House of Commons Public Bill Committee debated the amendments on 24 May 2011
See Clause 136:

<http://www.publications.parliament.uk/pa/cm201011/cmpublic/welfare/110524/pm/110524s01.htm>

¹⁷ From *Explanatory Notes to the Bill*

Mobility, chaired by the Deputy Prime Minister, will consider policies related to social mobility in the UK.¹⁸

The Welfare Reform Bill makes a number of amendments to the Child Poverty Act and thus to the make-up and powers of the Commission. During the passage of the Bill through Parliament the revisions were widely commented on¹⁹. In brief, the changes are as follows:

- Removal of the requirement for the government to receive consent from the Commission if it wants to change the targets in relation to persistent poverty.
- Removal of the requirement for the government to seek advice from the Commission before publishing a child poverty strategy.
- Removing the requirement for the Secretary of State to pay regard to any advice given by the Commission before publication of a strategy.
- Removal of the necessity for the devolved administrations in Scotland and Northern Ireland to request, and take heed of, advice of the Commission prior to publishing their strategies.
- Removal of the requirement for government to report annually on its progress in reducing child poverty.
- Removal of the provision for the Commission to be a panel of experts.

¹⁸ <https://www.education.gov.uk/publications/eOrderingDownload/CM-8061.pdf>

¹⁹ House of Commons Public Bill Committee – debate on Welfare Reform Bill, amendments to the Child Poverty Act – see Clause 136 24 May 2011
<http://www.publications.parliament.uk/pa/cm201011/cmpublic/welfare/110524/pm/110524s01.htm>
See also Welfare Consortium Joint Briefing 2nd Reading of the Welfare Reform Bill House of Lords 13 September 2011
http://www.revenuebenefits.org.uk/pdf/Joint_briefing_multiple_charities.pdf